*** THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

+ W.P.Nos.13419 and 20180 of 1996

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% 25-10-2005

Md.Hyder and 12 others Petitioners

Vs.

$ The Industrial Tribunal – II,

Hyderabad and another Respondents

! Counsel for the petitioners - Sri V.Viswanatham

^ Counsel for respondent No.2: Sri P.Nageswara Sree

< Gist:

>Head Note

?

(1985) 4 SCC 201

2 1984(1) LLJ 233

[3] 2003(3) ALD 290 (DB)

[4] AIR 2000 SC 454

[5] 1988 (1) LLJ 297

[6] 2004(103) FLR 1069

[7] 2005 (3) LLJ 17 (Rajasthan)

[8] 2003(97) FLR 608 (SC)

[9] 1979(1) LLJ 41

[10] 1980(1) LLJ 503

[11]AIR 1994 SC 112

[12]AIR 1994 SC 131

[13](1997) 11 SCC 396

[14]AIR 2001 SC 2401

[15](2005) 5 SCC 591

[16]1985(2) LLJ 505

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P.Nos.13419 and 20180 of 1996

COMMON JUDGMENT:

The question which arises for consideration in these writ petitions is whether Labour Courts/Tribunals are required to award reinstatement with full back wages in every case of termination of services of a workman in violation of Section 25-F of the Industrial Disputes Act or they have the discretion, for just and valid reasons, to award compensation in lieu of reinstatement with back wages.

W.P.No.13419 of 1996 is filed by 13 workmen challenging the award of the Industrial Tribunal II, Hyderabad, in I.D.No.193 of 1994 dated 30-12-1995, in so far as the workmen were denied reinstatement. Ms/ Bharat Dynamics Ltd., their erstwhile employer, filed W.P.No.20180 of 1996, questioning the same award of the Tribunal in directing that the workmen be considered when fresh appointments are made in the company and in directing that the workman be paid compensation at Rs.7000/- each.

Since the award of the Industrial Tribunal-II, Hyderabad in I.D.No.193 of 1994 dated 30-12-1995, is under challenge in both the writ petitions, they were heard together and are being disposed of by a common order. Parties shall hereinafter be referred to as they are arrayed in W.P.No.13419 of 1996.

Facts, to the extent necessary for this writ petition, are that the respondent – company is a defence establishment engaged in the manufacture of high-tech defence equipment such as anti tank guided missiles etc. It has two units in Andhra Pradesh, one at Kanchanbagh and the other at Bhanoor. The project office, of the respondent company at Bhanoor, was monitoring construction activities entrusted to various agencies. Casual employees were engaged for construction and other ancillary works of the project. Alleging that their services were terminated, without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947, the petitioners raised a dispute and, on failure of conciliation and a report being submitted in this regard by the Conciliation Officer on 19-10-1990, the Government of Andhra Pradesh, vide proceedings in G.O.Rt.No.3070 dated 21-12-1990, referred the following dispute for adjudication:

"Whether the management of Bharat Dynamics Limited, Bhanoor (v) Medak District is justified in removing the 13 employees whose names are given below in violation of Section 25-F of the Industrial Disputes Act?

1. Md. Hyder
2. G. Ramachandraiah
3. B. Kistaiah
4. K. Bikshapathy
5. G. Bikshapathy
6. Srinivasareddy
7. B. Ramulu
8. Bashaty
9. Samaiah
10. Ramchander
11. Lingamaiah
12. S. Nagaiah
13. G. Satyanarayana

If, not to what relief the employees are entitled?"

The Industrial dispute, referred to in G.O.Rt.No.3070 dated 21.12.1990, was numbered as I.D.No.435 of 1992 by the Labour Court-II, Hyderabad and on its transfer to the Industrial Tribunal-II Hyderabad, it was renumbered as I.D.No.183 of 1994. Before the Industrial Tribunal the workmen contended that, they had worked with the respondent as Helpers/Bore Well Operators, they were paid Rs.22/- per day, they had put in continuous service of more than one year, their services were terminated without notice or notice pay and since they had put in continuous service of more than 240 days within a period of twelve months prior to date of their removal from service, and were not paid notice pay or retrenchment compensation under Section 25-F of the Industrial Disputes Act, they were entitled for reinstatement with full back wages. The petitioners contended that, since they had been engaged as Helper/Pump Operator/Bore Well Operator in civil, stores and production departments of the respondent company and had been engaged continuously in a regular nature of work, the action of respondents in removing them from service amounted to retrenchment under Section 2(oo) of the Industrial Disputes Act and, for non-compliance with the mandatory requirement of Section 25-F, their termination was illegal and void. They also contended that certain persons juniors to them were continued as Helpers whereas the petitioners had been illegally removed from service.

The Respondent Company, in its counter before the Tribunal, stated that the 1st petitioner had alone worked as a Bore Well Pump Operator, on casual basis, and the rest of the petitioners had worked merely as Helpers on casual basis in various departments during project work. It is admitted that the petitioners were paid Rs.22/- per day and were engaged on casual basis. Respondents contended that since the petitioners were casual workmen and were engaged whenever there was work, the question of their services being terminated, without payment of retrenchment compensation on the ground of their completing 240 days continuous service, did not arise. Respondents denied violation of Section 25-F and contended that since there was no termination at all, the question of retrenchment under Section 2(oo) or compliance with the requirement of Section 25-F of the Industrial Disputes Act did not arise. With regards appointment of persons, whom the petitioners alleged were

juniors to them, respondents stated that these persons were all erstwhile land owners and were appointed in the respondent company since their lands had been acquired by it. It is stated that the names of these persons were sponsored by the employment exchange, they were called for selection, and on being found eligible were appointed to regular posts. A few of the juniors, as referred to in the petition, was contended as being non-existent. Respondents contended that selection of candidates for permanent posts is only after verification of their antecedents and since no such verification is carried out for appointment of casual workmen they are not entitled to seek regularization. It was also contended that public sector undertakings are precluded from resorting to back door recruitment and are required to follow the prescribed method of recruitment.

Before the Tribunal all the 13 workmen were examined as W.W.1 to W.W.13 and 16 documents were marked (Exs.W-1 to W-16) as exhibits. For the respondent management one Sri P.V.Satyanarayana was examined as M.W.1 and documents Exs.M-1 to M-6 were marked as exhibits.

The Tribunal took note of the fact that M.W.1, both in his examination in chief and in his cross-examination, had admitted that all the workmen, in the reference, had completed 240 days and that respondents had not issued any notice to the workmen before terminating their services. The Tribunal held that since the workmen had completed 240 days in a year, whether or not they were casual labourers, their removal from service was in violation of Section 25-F of the Industrial Disputes Act and was not justified. While examining the question as to whether, in every case of infringement of Section 25-F, an award of reinstatement with back wages should be passed, the Tribunal took note of the fact that the construction work was over in the Bhanoor unit during the middle of 1992, that for regular work the respondent had persons with technical qualification who were allotted work in manufacturing of missiles in a sensitive unit, and that there was a settlement between the respondents and the land oustees to the effect that the respondent should employ them. The Tribunal, on holding that the respondent was a defence establishment, was of the view that it would be just to award compensation instead of reinstatement with a direction that the respondent shall consider the case of the petitioners and give preference in future appointments to be made in the respondent company after verifying their antecedents and that their age limit should be taken into consideration only upto their first date of appointment as a casual labour. The

Tribunal held that the respondent was not justified in terminating the 13 employees, whose names were given in the annexure to the reference, in violation of Section 25-F of the Industrial Disputes Act, and directed payment of Rs.7000/- to each workman and one month's pay as compensation for each year of service. The Tribunal held that, for determining the pay, the average pay drawn during the last 10 months preceding their retrenchment should be taken as monthly pay. The Tribunal held that this relief granted by it was in lieu of reinstatement and that the petitioners would be entitled to be considered for fresh appointments to be made in the respondent company.

Aggrieved by the award of the Labour Court, both the petitioner workmen and respondent-employer are before this Court.

Sri V.Viswanatham, learned counsel for the petitioner, would place reliance on **H.D.Singh v. Reserve Bank of India**; **M/s Gammon India Ltd v. Sri Niranjan Dass**; **Divisional Engineer Telecom, Coaxial Cable Project, Rajahmundry v. Mamidi Venkata Ramana**; **Management of M.C.D. v. Prem Chand Gupta**; **Sharad Hari Deshpande v. India Security Press**; and **Rajendra Prasad Shankar Lal Purohit v. Executive Engineer** in support of his submission that once a workman has put in service of more than 240 days, in the 12 month period prior to his termination, he is entitled for reinstatement with full back wages in case his termination is in violation of the mandatory requirement of Section 25-F of the Industrial Disputes Act.

Sri P.Nageswara Sree, learned Counsel for the respondents, would submit that the respondent company is a defence undertaking and merely because certain casual labourers had worked for more than 240 days, they are not entitled to seek appointment on a permanent basis in a sensitive defence undertaking wherein important defence equipment is manufactured and it is only after a thorough enquiry of the antecedents would the question of appointing persons, possessing the requisite qualifications, to permanent posts, arise for consideration. Learned counsel would place reliance on **Dungar Das v. UCO Bank** in support of his submission that an award directing reinstatement would depend on various factors, such as the nature of employment, length of service etc., and that reinstatement is not automatic.

In **H.D.Singh** (1 supra), the validity of termination of the services of a Tikka Mazdoor,

(a daily wage employee), was in question. The Supreme Court held that since the workman had completed 240 days of service he was entitled for the protection of Section 25-F of the Industrial Disputes Act, as such termination of services amounted to retrenchment, and that striking off the name of such an employee from the rolls amounted to retrenchment under Section 2(oo) of the Industrial Disputes Act and was in violation of Section 25-F, thereof The respondent Reserve Bank of India was directed to enlist the workman as a Tikka Mazdoor, reinstate him into service and pay him the entire back wages.

In **Premchand Gupta** (4 supra), the Supreme Court held that termination of the services of a workman, on completion of 240 days, was violative of Section 25-F of the Industrial Disputes Act and was therefore null and void. While holding that the logical consequence thereof would be that the workman would be entitled to be reinstated, with continuity of service and full back wages, the Supreme Court held that in the peculiar facts of the case, it was not proper to grant full back wages to the workman. While directing that the workman be reinstated, with continuity of service and consequential benefits, the Supreme Court held that the workman was not entitled for being granted full back wages, since the litigation had lingered for more than three decades and it would not be proper to saddle public exchequer with full back wages for the entire period. The workman was directed to be reinstated with continuity of service with 50% back wages.

In **Maddi Venkata Ramana** (3 supra), a Division Bench of this Court, while considerering the case of a Mazdoor whose services were terminated by the Telecom Department, held that since the workman had worked for more than one year he was entitled for the benefits of Section 25-F of the Industrial Disputes Act and since there was non-compliance of Section 25-F his termination was invalid. The Division Bench held that back wages could not be denied without recording reasons and whenever termination is held to be illegal a consequential order of grant of back wages must follow. The workman was directed to be reinstated with back wages.

In **Rajendra Prasad Shankar Lal Purohit** (6 supra), the Gujarat High Court, following the judgment of the Supreme Court in **S.M.Nilajkar v. Telecom District Manager, Karnataka**, held that engagement of a workman in a project would not disentitle him from claiming protection under Section 25-F and once the order of

termination is found to be *ab initio void*, the workman was entitled for reinstatement with continuity of service. It was further held that in the absence of the tests, prescribed in **S.M.Nilajkar** (8 supra), being satisfied, it could not be said that the workman had been engaged in a project for a specific duration.

In **S.H.Deshpande** (5 supra), a Division Bench of the Bombay High Court held that once the services of a workman is held to have been illegally terminated, and that the procedure envisaged under Section 25-F of the Industrial Disputes Act had not been followed, the workman should be granted relief of reinstatement with full back wages and continuity of service.

In **M/s Gammon India Ltd.** (2 supra), the services of a Senior Clerk were terminated due to reduction in the volume of business as a result of recession in work. The Supreme Court held that where the termination of service is not covered by any of the clauses (a), (b) and (c) of Section 2(oo), the termination would, ipso facto, amount to retrenchment attracting the provisions of Section 25-F of the Industrial Disputes Act and the workman would be entitled for reinstatement with full back wages.

It is well settled that the conditions prescribed under Section 25-F of the Industrial Disputes Act are required to be complied with prior to retrenchment and failure to comply with these pre-conditions would render termination of the services of a workman *ab initio* void. The question which, however, arises for consideration is as to whether in every case of failure to comply with Section 25-F of the Industrial Disputes Act the Industrial Tribunal/Labour Court has necessarily to direct reinstatement with full back wages or whether it has the discretion to award compensation in lieu of reinstatement.

In **Management of Coimbatore Pioneer B. Mills v. Presiding Officer, Labour Court, Coimbatore,** the Labour Court found the retrenchment bona fide and the reasons given therefor legal and valid. It also found that there was non-compliance of the provisions of clause (b) of Section 25-F inasmuch as retrenchment compensation and notice pay was not paid before or simultaneously with the notice of retrenchment. The Labour Court held that the retrenchment was not valid. While refusing reinstatement, the Labour Court awarded each of the workmen one month's wages as compensation in lieu of reinstatement. The Division Bench of the Madras High Court, while refusing to grant reinstatement, however,

modified the award of the Labour Court substituting two months pay, for the one month pay granted by the Labour Court, as compensation in lieu of reinstatement. In this context the Division Bench held thus:

"…….In a case where to the satisfaction of the Court it is established that there was need and necessity for retrenchment in the industry and the management for legal and valid reasons decided to retrench, the Labour Court in our view would have to consider whether it will be just and reasonable to order reinstatement while it gave a finding that S.25F had not been complied with. We are aware that the Supreme Court in clear and unmistakable terms has held in the decision in State of Bombay v. Hospital Mazdoor Sabha (1960-I LLJ 251), that the non-compliance with the conditions of S.25F(b) relating to payment of compensation would render the impugned retrenchment invalid and inoperative. The decision relied on by the leaned counsel for the workers in Sridharan Motor Service v. Industrial Tribunal, Madras and others, (1959-I LLJ 380), and Indian General Navigation and Railway Company Ltd. And another v. Their Workmen, (1960-I, LLJ 13), do not in any way advance further than holding that an illegal action can never be justified. In fact, the decision of the Supreme Court in State of Bombay v. Hospital Mazdoor Sabha (supra) was interpreted and understood in Udaipur Mineral Development Syndicate Pvt. Ltd v. M.P.Dave and another (1975-II, LLJ 499), as holding that in such case there is no termination of the relationship of employer and employee. But in none of these decisions cited it has been held that even if the Labour Court were to find that there was need for retrenchment and the retrenchment was bona fide, there was no option for the Labour Court but to order reinstatement in all cases of non-compliance of the provisions of S.25-F of the Act ……

……We are, therefore, of the view that in such circumstances of non-compliance with the provisions of S.25F(b) where bona fides or the need for retrenchment is justified, the Labour Court will have a discretion with reference to the facts in each case, either to order reinstatement or direct payment of compensation in lieu of such reinstatement. The order of the Labour Court in such circumstances will be open to question if it is arbitrary or not based on valid or relevant criteria……."

This judgment of the Division Bench of the Madras High Court was affirmed in **Workmen of Coimbatore Pioneer "B" Mills Ltd v. Labour Court and others**, wherein the Supreme Court, on refusing to direct reinstatement, increased the compensation, payable to the workmen in lieu of reinstatement, from two months' wages, as directed by the Division Bench of the Madras High Court, to four months' wages.

In **Gujarat State Road Transport Corpn. V. Mulu Amra**, the Supreme Court directed payment of lump-sum compensation of Rs.75,000/- in lieu of reinstatement, since the workman had been dismissed more than 14 years prior to the date of its order,

In **Rolston John v. Central Government Industrial Tribunal-cum-Labour Court**, the Supreme Court held that retrenchment of the workman was in contravention of Section 25-F of the Industrial Disputes Act and void and ineffective. However, keeping in view the facts and circumstances of the case, the Supreme Court did not consider it appropriate to grant the relief of reinstatement and directed that, in full and final settlement of all claims of the workman and in lieu of reinstatement and consequential benefits, the employer shall pay compensation of Rs.50,000/- to the workman and on such payment the matter would stand concluded between the parties.

In **Rattan Singh v. Union of India**, the Supreme Court held that protection of Section 25-F of the Industrial Disputes Act could not be denied to the daily rated worker. While setting aside the order of termination of services of the workman, on the ground of violation of Section 25-F of the Industrial Disputes Act, the Supreme Court was not inclined to direct reinstatement since nearly 20 years had elapsed from the date on which the services of workman were terminated and directed that a consolidated sum of Rs.25000/- be paid to the workman as compensation, in lieu of back wages and reinstatement, and in full and final settlement of all claims of the workman.

In **Sain Steel Products v. Naipal Singh**, the Labour Court, on finding that termination of the services of the workmen was without complying with Section 25-F of the Industrial Disputes Act and was therefore illegal, directed reinstatement of the workmen with back wages at the minimum rate of wages till the date of his reinstatement. The Supreme Court, while confirming the award of the Labour Court, considered the fact that the workman had not been in employment for more than 25 years, it would not be proper to put him back into service and instead some reasonable compensation could be paid to the workman in lieu of back wages and reinstatement. A sum of Rs.50,000/- was directed to be paid as compensation in lieu of reinstatement.

In **General Manager, Haryana Roadways v. Rudhan Singh** , the Tribunal held that termination of services of the workman, without complying with the requirement of Section 25-F of the Industrial Disputes Act, was illegal. The workman was directed to be reinstated with 50%back wages. The award of the Tribunal was

confirmed by the Punjab and Haryana High Court. The Supreme Court also held that the provisions of Section 25-F of the Industrial Disputes Act were clearly applicable and that termination of the services of the workman was invalid. While examining the question as to whether award of 50% back wages to the workman was justified, the Supreme Court held thus:

"There is no rule of thumb that in every case where the Industrial Tribunal gives a finding that the termination of service was in violation of Section 25-F of the Act, entire back wages should be awarded. A host of factors like the manner and method of selection and appointment i.e., whether after proper advertisement of the vacancy or inviting applications from the employment exchange, nature of appointment, namely whether ad hoc, short terms, daily wages, temporary or permanent in character, any special qualification required for the job and the like should be weighed and balance in taking a decision regarding award of back wages. One of the important factors, which has to be taken into consideration, is the length of service, which the workman had rendered with the employer. If the workman has rendered a considerable period of service and his services are wrongfully terminated, he may be awarded full or partial back wages keeping in view the fact that at his age and the qualification possessed by him he may not be in a position to get another employment. However, where the total length of service rendered by a workman is very small, the award of back wages for the complete period i.e., from the date of termination till the date of the award, which our experience shows is often quite large, would be wholly inappropriate. Another important factor, which requires to be taken into consideration is the nature of employment. A regular service of permanent character cannot be compared to short or intermittent daily-wage employment though it may be for 240 days in a calendar year"

I n **Mount Mettur Pharmaceuticals Ltd v. Second Additional Labour Court, Madras**, the Labour Court held that retrenchment effected by the management was bona fide and since Section 25-F of the Industrial Disputes Act had been violated, those workmen who had completed 240 days, within 12 calendar months preceding the order of retrenchment, were directed to be reinstated with full back wages. The award of the Labour Court was confirmed by a single judge of the Madras High Court and when the matter came up for consideration, before the Division Bench, it was held thus:

"In cases where the Labour Court specifically finds that the retrenchment effected by the management is justified and not mala fide, the Labour Court should exercise discretion and pass, instead of directing reinstatement with full back wages, an award directing a just amount of compensation inn lieu of reinstatement. As already stated, it is not the law that in every case of infringement of S.25F, the award of reinstatement with back wages is a must by the Labour Court. In cases where the management is found to be justified in effecting retrenchment and its decision to effect retrenchment is not mala fide, the Labour Court will be exercising its discretion properly if suitable compensation in lieu of reinstatement with back wages is ordered. In this case, the Labour Court has proceeded on the basis that

since there is infringement of s.25F, it should straightway grant the relief of reinstatement with back wages, ignoring the fact that discretion if left with the Labour Court either to direct reinstatement with back wages or to award compensation instead. Since the Labour Court has not directed its mind to this aspect as to the relief to be granted to the concerned four workmen, we set aside the order of the learned Judge and also the award passed by the Labour Court and direct suitable compensation in lieu of reinstatement for these four workmen"

In **Dungar Das** (7 supra), the judgment relied upon by Sri Nageswara Sree, learned counsel for the respondent – management, the Gujarat High Court held that an employee, who was out of job for a number of years, loses his proficiency, productivity and efficiency and in case the respondents are directed to reinstate such a person into service after such a long time, it would lead to complications. It was held that the question whether an employee should be reinstated or not depends upon various factors such as (1) the nature of employment; (2) the period between the date of appointment and the date of termination i.e., length of service; (3) the period between the date of termination and the date of award; and (4) the period between the date of termination and the conclusion of proceedings. The Gujarat High Court further held that, in case a person is appointed for a short period of time without making him go through a process of selection and the gap between the date of termination and the award of the Tribunal is not a large one, ordinarily the employee should be awarded compensation in lieu of reinstatement when it is found that his termination was in violation of the provisions of Section 25-F of the Industrial Disputes Act. The Gujarat High Court held that the Labour Court had the discretion to award compensation in lieu of reinstatement, and when it had exercised its discretion awarding compensation, it could not be said that the Labour Court had committed any error, much less error on facts or law or a jurisdictional error, which called for interference of the High Court, in its supervisory jurisdiction, under Articles 226 and 227 of the Constitution of India.

While retrenchment, in violation of Section 25-F, would render termination illegal and *ab initio* void, it would not automatically result in reinstatement of the workman with full back wages. Industrial Tribunals/Labour Courts, for just and valid reasons, have the discretion to award compensation in lieu of reinstatement.

In the impugned award, in I.D.No.193 of 1995 dated 30-12-1995, the Industrial

Tribunal took note of the fact that the workmen were engaged as helpers on daily wages prior to 1992, for construction work of the Bhanoor Unit of Bharat Dynamics Limited, a defence undertaking and that for regular work, the company had persons with technical qualifications. The Labour court also held that the respondent – company was engaged in manufacture of missiles and was a sensitive unit and in such circumstances, the Tribunal held that it was not desirable to order reinstatement of all persons, more so, since the respondent management had to verify their antecedents, while appointing persons on regular basis, whereas the petitioners were all appointed only as helpers. Retrenchment of the petitioners, in effect, was held bona fide. In these circumstances, the Tribunal was of the view that awarding of compensation, in lieu of reinstatement, was justified. The Tribunal, however, directed that the workmen be considered and given preference in future appointments to be made in the respondent – company after verifying their antecedents and that their aged limit shall be taken into consideration only up to their first date of appointment as casual labour after verification.

In so far as the direction of the Tribunal, to give preference to the petitioners in future appointment and to relax the age limit, is concerned this direction is beyond the scope of the reference. The dispute referred to the Tribunal was whether the management of Bharat Dynamics Limited, (respondent), was justified in removing 13 employees, (petitioners), in violation of Section 25-F of the Industrial Disputes Act. Even if the reference, in its entirety, was considered in favour of the workmen, and reinstatement was directed for violation of the conditions prescribed under Section 25-F of the Industrial Disputes Act, the petitioners could only have been reinstated in posts which they earlier held as helpers. As such the direction, that they may be considered for regular appointment on preferential basis with age relaxation, is beyond the scope of reference, is invalid and is therefore, set aside.

In so far as the direction of the Tribunal to award compensation in lieu of reinstatement is concerned, it cannot be said to be not justified. It is well settled that the High Court, in exercise of its Certiorari jurisdiction under Article 226 of the Constitution of India, does not sit in appeal or substitute its views for that of the Labour Court/Industrial Tribunal unless the finding is perverse, based on no evidence or contrary to law. Since the discretion exercised by the Tribunal, in awarding compensation in lieu of reinstatement with full back wages, does not fall under any of the aforesaid categories, it does not call for interference.

The only question which remains to be considered is whether the Tribunal was justified in awarding Rs.7000/-, to each of the workmen, as compensation in lieu of reinstatement in addition to one month's pay for every year of completed service. The Labour Court has not assigned reasons for fixing Rs.7000/- as compensation. On enquiry as to whether both parties could mutually agree on a higher amount to be paid as compensation to the workmen, in lieu of reinstatement, so that a quietus could be given to the entire matter, Sri V.Viswanatham, learned counsel for the petitioner, on instructions, would submit that the petitioners seek reinstatement into service. Sri P.Nageswara Sree, learned counsel for the respondent – company, would justify the award of compensation of Rs.7000/- to be paid to each of the workmen contending that since they had worked for just a year the compensation awarded by the Tribunal is more than reasonable.

The Tribunal has not assigned reasons for fixing Rs.7000/- as compensation. It is not for this Court to fix the compensation, and it is for Tribunal, on basis of evidence, to arrive at a reasonable amount which the workmen should be awarded as compensation in lieu of reinstatement.

The award of the Tribunal is confirmed to the extent it awarded compensation to each of the workmen in lieu of reinstatement. The award of the Tribunal in directing the respondent company to consider the case of the petitioners for regular appointment on preferential basis with relaxation of age limit is set aside. The matter is remanded to the Tribunal which shall, as expeditiously as possible, in any event not later than four months from the date of receipt of a copy of this order, hear both sides and determine the appropriate compensation to be paid to each of the workmen in lieu of reinstatement with full back wages.

Both the writ petitions are disposed of accordingly. No costs.

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-10-2005

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